

HIGH COURT, BOMBAY

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO NO.1744 OF 2005

Vincy D'Silva .. Petitioner.

v/s.

St. Mary's School & Others .. Respondents.

Ms. Sheetalkumar i/b. M/s. Milan Bhise & Co. for the petitioner.

Mr. I. M. Chhagla with Mr. Naval Agarwal and Mr. A. G Kothari for respondent Nos 1 to 4.

Ms. Mugdha Jadhav, AGP for respondent Nos. 6 and 7.

Mr. J. K. Mistry i/b. Mr. P. M Hamur for respondent No. 9.

Ms. Avantika Wankhede i/b. M/s.Divya Shah & Associates for respondent No.10.

CORAM: R. M. LODHA &

NARESH H. PATIL, JJ.

DATED: 20th July 2006

ORAL ORDER (Per R.M. Lodha, J.):

1. In the light of the discussion in the matter on earlier dates of hearing, the senior counsel for respondent Nos.1 to 4 handed in the Scheme to provide facilities to the students with learning disabilities of dyslexia, dysgraphia and/or dyscalculia. The Scheme is marked 'X' for identification purposes. The counsel for the petitioner and the counsel for other respondents are agreeable to the said scheme.

2. Having considered the said scheme, we find it adequate, proper and beneficial to the students with learning disabilities. We, accordingly, accept the Scheme and observe that the said Scheme becomes operative with immediate effect.

3. The State Government, Education Authorities and all Schools in the State of Maharashtra having affiliation with any of the Boards viz., Secondary School Certificate Board (SSC), Indian Council of Secondary Education (ICSE) and Central Board of Secondary Education (CBSE) shall abide by the said Scheme in relation to the students with learning disabilities . The schools in the State of Maharashtra are also directed to abide by the circulars issued by the State Government from time-to-time not inconsistent with the Scheme 'X' approved by us today. The disobedience or non- compliance of the Scheme in relation to the students with learning disabilities by any of the schools in the State of Maharashtra shall be treated as disobedience of the order of this Court and they shall be proceeded with accordingly.

4. We direct the three Boards viz., SSC, ICSE and CBSE to circulate the Scheme to all the schools under their jurisdiction and having their affiliation.

5. We record our appreciation for the sincere and concerted effort of the senior counsel, the counsel, the Assistant Government Pleader and all concerned parties in finalization of the Scheme.

6. The writ petition is disposed of with no order as to costs.

(R.M. LODHA, J)

(NARESH H. PATIL, J)

SCHEME TO PROVIDE FACILITIES TO STUDENTS WITH LEARNING DISABILITIES
OF DYSLEXIA , DYSGRAPHIA AND/OR DYSCALCULIA .

1. Preamble:

This Scheme seeks to devise a system to identify and provide assistance to students with learning disabilities of Dyslexia (reading disability), Dysgraphia (writing disability), and/or Dyscalculia (mathematical disability), by providing the facilities mentioned hereunder, in an effort to prepare and educate them in a manner so as to integrate them into the mainstream of education through the regular school system and curriculum.

The ICSE/ CBSE/ SSC board also recognizes that it is imperative that such system devised takes into account the fact that eventually all such students are to be prepared so as to achieve the minimum requisite level of education, and ultimately face the board examinations. Whilst granting such facilities, it is also necessary to exercise care to minimize the development of any inferiority complexes in such students or any feeling that they are less capable than other students.

2. Testing Procedure:

- (1) An expert committee appointed by the Court shall devise a standardized check list for screening students who are not performing well at any level in order to identify students with learning disabilities of dyslexia, dysgraphia, and/or dyscalculia. It shall be mandatory for the schools to apply the check list for such students of standard 3 and standard 6 who are not performing well.
- (2) If a learning disability is suspected in a student by the teacher or otherwise, on consultation between the concerned teacher and the student's parent/ guardian, such student can be examined by a neurologist, psychologist, or special educator at a professional centre, and in rural areas including by paediatrician or general practitioner trained in assessing LD (Learning Disability) children, hereinafter referred to as "Expert", for conclusive diagnosis of LD. The expenses for the examination of the student by an Expert shall be borne by the concerned parents.
- (3) Upon detection of a learning disability in a student, the Report on the standardised check list under (1) above, or the Report of said Expert under (2) above, confirming the child's learning disability along with a medical certificate filled in by the Expert is to be submitted to the school, who in turn shall submit the same to the competent authority.

- (4) Such learning disability shall be brought to the notice of concerned Principals, teachers, the student and their parents/guardians. The Principal shall inform the parents/guardians of the facilities mentioned hereinbelow that can be provided free of cost.
- (5) Every school shall maintain an independent register of students with such learning disabilities.
- (6) A record book shall be maintained for each student with a learning disability in which his / her yearly progress is regularly recorded.

3. Facilities:

Students with learning disabilities of Dyslexia, Dysgraphia and /or Dyscalculia may be provided with such of the following facilities as are expressly required and recommended for Dyslexia, Dysgraphia and/or Dyscalculia:

- (1) Students with learning disabilities of standard 1 to 10 shall be permitted 25% additional time for each written examination over and above that normally allotted.
- (2) Students with learning disabilities of standard 1 to standard 9 shall, in addition to each written examination, also have oral tests taken by teachers of the relevant subjects. The final results shall be determined on the basis of average marks of the combined written and oral examinations, on which promotion to higher standards is determined.
- (3) Students with learning disabilities shall also be permitted to take the help of a writer. The writer may be provided for the full paper or part of the paper. The students may be given the facility to use a typewriter to answer their papers. The institution may, as far as possible, arrange to provide typewriters, tables, chairs, and seating arrangement for these candidates in a separate room.

In the event that a writer is to be provided:

- i. A suitable writer conforming to what is provided hereinbelow will be arranged by the student/parent/guardian, in consultation with the Head of the Institution.
- ii. The writer shall be a person not directly concerned with teaching the said student, but shall be a person who is able to understand the said student's speech. The writer should be of at least one standard lower than the LD student.
- iii. The writer shall be chosen very carefully and instructed to write down exactly what the student says to them.
- iv. Before the examination commences an undertaking shall be taken from the writer to the effect that there will be no misuse of the concession.

- (4) For the purposes of board examinations that are held at centres outside the school, such students will be given the nearest examination centre of their choice.
- (5) Students with learning disabilities of standards 1 to 9 may be provided with teachers /invigilators to read the question paper to the concerned candidates in the examination hall, but should explain it to them.
- (6) A) Students with specific dyslexia, dysgraphia of standard 1 to 9 shall be exempted from language subjects other than English, example Hindi or any other regional language. Such student shall however attend all classes and will give all examinations except in such exempted subjects.

(B) *Student of Dyscalculia of Std. I to IV shall be doing regular maths/Arithmetic. The teacher must overlook number reversal and errors in mathematical symbols confusion such as + & x or - & ÷ symbols.

* Students of Std V and VI will do Std V maths.

* Students of Std VII & VIII will do Std VI maths.

* Students of Std IX & X of SSC Board will do Std VII maths.

* Students of Std IX & X of ICSE, CBSE will have the option of dropping maths as per the ICSE, CBSE syllabus.

All schools (SSC, ICSE, CBSE) must give the above options. If the school cannot provide the facility to teach lower level maths, the Parents can have the option to teach the child privately, but the Examination will be conducted by the School.

- (7) Students with learning disabilities shall be pardoned and exempted from:
- i. spelling errors, and the content of the answer should be evaluated rather than the syntax/structure of the written language or the spellings.
 - ii. directional mistakes in maps in the subject of geography.
 - iii. errors in mathematical calculation arising out of writing numbers in the wrong order (example 10/01), and emphasis should be laid and marks be awarded for the method employed by such students.
- (8) Students with learning disabilities of standard 1 to 9 shall be exempted from drawing figures, diagrams, charts, maps and graphs in written examinations. The marks of such questions/sub questions shall be based on the rest of the paper proportionately. Alternatively, supplementary questions may be formulated specifically for such students.
- (9) Students with learning disabilities of standards 1 to 9 who fail to obtain the minimum prescribed marks to determine promotion to higher standards shall be granted a maximum

of an aggregate of 20 grace marks instead of 15. The 20 grace marks can be given in one subject or may be divided in one or more subjects.

- (10) Cursive writing should not be enforced for students with learning disabilities. Such students may be permitted to continue writing in print.
 - (11) Students suffering from “Auditory Discrimination” or having a listening comprehension problem may be permitted the use of a tape recorder in the classroom.
 - (12) Students with learning disabilities shall be exempted from the long descriptive answers in homework or class work. They should be allowed to write in point form.
4. Students with learning disabilities having very specific problems in certain areas may request additional facilities they may need along with supporting documentation and all relevant test reports to the principal of the school, who in turn shall forward the same to the board. Such facilities may be granted on a case to case basis by the board.
 5. It is advisable that students diagnosed with Learning Disability are provided facilities for Remedial Education.
 6. The following recommendations are given:
 - i. Awareness programmes for teachers/ principals about identifying at risk LD students.
 - ii. Compulsory LD training module for all teachers. Education department should ensure this to sensitize the teaching fraternity.
 - iii. Each school should have a committee of teaches/educators to review the student’s academic problems.
 - iv. Medical/Health checkup to be strictly adhered to.
 - v. Vernacular students should be tested in the regional language by providing these tests in respective languages.
 - vi. Testing procedures should be uniform.